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9	NOT FOR CITATION	
10	IN THE UNITED STATES DISTRICT COURT	
11	FOR THE NORTHERN DISTRICT OF CALIFORNIA	
12	ROBERT L. HILL,) No. C 09-00428 JF (PR)	
13	Petitioner,) ORDER DENYING PETITION	
14	vs.) FOR WRIT OF HABEAS CORPUS; DENYING	
15) CERTIFICATE OF) APPEALABILITY	
16	BEN CURRY, Warden,	
17	Respondent.)	
18		
19	Petitioner, a state prisoner currently incarcerated at the Correctional Training	
20	Facility in Soledad, California, seeks a writ of habeas corpus pursuant to 28 U.S.C. §	
21	2254, challenging the Governor's reversal of a decision of the Board of Parole Hearings	
22	("BPH") granting him parole. As grounds for federal habeas relief, Petitioner asserts that	
23	he is suitable for parole "because there is no evidence that he currently poses a danger to	
24	the public if he is released." (Pet. at 8.)	
25	The United States Supreme Court held that in the context of a federal habeas	
26	challenge to the denial of parole, a prisoner subject to a parole statute similar to	
27	California's receives adequate process when he is provided an opportunity to be heard	
28	and a statement of the reasons why parole was denied. Swarthout v. Cooke, 131 S.Ct.	
	Order Denying Habeas Relief; Denying Certificate of Appealability P:\PRO-SE\SJ.JF\HC.09\Hill-09-428-bph deny-post cooke.wpd	

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859, 862–63 (2011) (per curiam). Here, the record shows that these requirements were met. See Doc. #1-1 at 12–16 & 64–73. The Constitution does not require more. Swarthout, 131 S.Ct at 862.

The Supreme Court also made clear that the question of whether the BPH's decision was supported by "some evidence" of current dangerousness is irrelevant in federal habeas: "it is no federal concern . . . whether California's 'some evidence' rule of judicial review (a procedure beyond what the Constitution demands) was correctly applied." Swarthout, 131 S.Ct at 863. Accordingly, the instant petition will be **DENIED**.

A certificate of appealability also will be **DENIED**. See Rule 11(a) of the Rules Governing Section 2254 Cases. Petitioner has not made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2), nor has Petitioner demonstrated that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000). Petitioner may not appeal the denial of a certificate of appealability in this Court, but he may seek a certificate from the Court of Appeals under Rule 22 of the Federal Rules of Appellate Procedure. See Rule 11(a) of the Rules Governing Section 2254 Cases.

The clerk shall terminate any pending motions as moot, enter judgment in favor of Respondent and close the file.

IT IS SO ORDERED.

DATED: ______

JEREMY FO JEL
United States District Judge

Order Denying Habeas Relief; Denying Certificate of Appealability P:\PRO-SE\SJ.JF\HC.09\Hill-09-428-bph deny-post cooke.wpd

UNITED STATES DISTRICT COURT FOR THE

NORTHERN DISTRICT OF CALIFORNIA

ROBERT L. HILL,	Case Number: CV09-00427 CRB	
Petitioner,	CERTIFICATE OF SERVICE	
v.		
BEN CURRY, Warden,		
Respondent.	/	
I, the undersigned, hereby certify that I am a Court, Northern District of California.	an employee in the Office of the Clerk, U.S. District	
attached, by placing said copy(ies) in a post	, I SERVED a true and correct copy(ies) of the age paid envelope addressed to the person(s) pe in the U.S. Mail, or by placing said copy(ies) into a the Clerk's office.	
John Williams J-42019 Correctional Training Facility YW-216-Up P.O. Box 689 Soledad, CA 93960-0689		
Dated: 3/10/11	Dishoud W. Wielsing Cloub	
	Richard W. Wieking, Clerk	